



POLICY: COMMUNITY LEASING AND LICENCING OF COUNCIL OWNED PROPERTY

POLICY NO: 8.3

PURPOSE OF POLICY:

The purpose of this policy is to provide a consistent and equitable approach to community groups who wish to lease Council owned property and facilities.

SCOPE:

The Policy applies to all community groups wishing to enter into a lease/licence agreement for the use of Council owned or managed facilities.

It also applies to Council Officers involved with the negotiating and preparation of the lease or licence agreements.

DEFINITIONS:

Lease	A lease is a legally binding agreement that details the terms and conditions of the exclusive use of property for a period of time in return for the payment of rent.
Licence	A licence is a legally binding agreement that details the terms and conditions of the non-exclusive use of property for a period of time in return for the payment of rent.
Head Lease	A primary lease agreement between two parties
Sub lease	A secondary lease agreement between two parties where a Head Lease exists.
Peppercorn lease	A lease where the lease payments are significantly less than market value. They are for exclusive use of land that usually adjoins a lessee's property. Some peppercorn lease can be for non-exclusive use of a facility for example a storage room.
Community Groups	A Group whose primary objective is to serve and benefit the community with not-for-profit objectives.
Community based business	An association, organisation or community group including not-for-profit and unincorporated bodies that provide support, financial, non-financial or services to the community whether for fee for service or funded by other means.
Term	The period time of the lease agreement
Council Property	Property including land and buildings owned by Council
Landlord	The owner of the property (Council)
Tenant	The party entering into a lease agreement with the owner of the property.

POLICY:

1. Council encourages use of its facilities and properties by a broad range of Community groups and organisations to provide required services or assist in building a connected and strong community.
2. Council will ensure suitable use of facilities that will optimise the use of Council property.
3. The process will be in accordance with sections 177-179 of the *Local Government Act 1993*.
4. The term of the Community lease or licence must not exceed a term of five (5) years unless otherwise determined by the Council, in accordance with the *Local Government Act 1993* (LGA).

Lessee Categories:

- Charitable or benevolent Services (e.g. Meals on wheels)
- Art and Cultural organisations (e.g. craft group)
- Community groups (e.g. service club)
- Community business

Lease/licence fees and charges

5. Commencing in 2024/25 the community rent amount will be \$500.00 + GST which will be included in Council's fees and charges register. The lease fee is nominal, and applies to all groups, regardless of the nature of the premises.
6. Annual rent will increase by Consumer Price Index CPI (Hobart) each year.
7. Sport and Recreational Groups are excluded from this policy and will be directly negotiated with by Council officers and a report presented to Council for consideration.
8. If a tenant has spent significant funds or obtained grant funding to contribute to capital improvements to the Council owned property, then they may be entitled to negotiate a lesser annual rent amount to be approved by Council.

Community tenants will be required to pay all charges in respect of:

- Gas, electricity, and oil
- Garbage and recyclables removal
- Telephone connection and usage.
- Internet services connection and usage
- TasWater service and usage fees
- Public Liability Insurance
- Security monitoring and callouts
- Council rates
- Land Tax
- Any other user -based utilities incurred by the community tenant.

9. A Community Group may be eligible to apply each year for a 'Rates' Exemption for charitable purposes in accordance with Section 87(d) of the Local Government Act 1993 for the term of the lease.
10. For vacant properties or non-renewed leased Council properties, Council may choose to run an expression of interest process or alternatively, Council may directly negotiate with a group who approach Council to lease a property.
11. Any alteration and additions to the premises internal or external must not be carried out without first obtaining written Council consent and must be conducted in accordance with appropriate statutory approvals and legislative requirements. In addition, they must be carried out by appropriate qualified persons if not Councils preferred contractors.
12. All new fixed improvements constructed or installed internally or externally by the tenant that are built legally on Council land under a lease or license will become the property of Council at the time they are constructed or installed.
13. Council will promote shared use of public facilities where possible and within the capacity of the facility. This may involve sharing building spaces at the same time or at different times as another group.

In allocating Council properties, it will consider:

- The type of use most appropriate for the facility.
 - Availability of other facilities
 - Value to the community (eg. social inclusion, health & wellbeing, Arts & Culture, welfare)
 - The need of the community for a particular group, organisation, or business
 - Capacity to pay rent, utilities, and maintenance.
 - Existing seasonal use
 - Willingness to share facilities with other user groups.
 - The applicant's prior tenancy history.
 - Uses that align with Council's strategic plan.
 - Whether the applicants or their members are predominantly based in the Brighton Municipality
 - Future Council needs of the asset.
14. Community tenants who wish to sublet are required to seek written permission from Council prior to making such arrangements. Subletting may result in an increase of the lease fees payable to Council. The terms and conditions of any sub-lease must be in accordance with the head lease agreement.
 15. Council reserves the right to amend the rental including the rent amount if a lessee gains access to grant funding and other commercial means of income, other than fundraising, that is generated during the term of the agreement.
 16. Community tenants must provide Council with a Certificate of public liability insurance on an annual basis for a minimum of \$20 million each year for the term

- of the lease. They will also be responsible to ensure the adequate insurance of their own contents stored within the property.
17. It is the responsibility of the tenant, to comply with health and safety laws and regulations and to ensure the minimisation of all risks. The tenant must comply with emergency evacuation procedures and risk management practices at the direction of Council.
 18. The tenant must release and indemnify Council from all claims resulting from any damage, loss, death, or injury in connection with the leased premises, unless such claims arise out of Council's negligence.
 19. A Peppercorn lease can be approved for parcels of council land adjoining to an owner's property. The nominal lease amount will be \$50.00 per annum + GST commencing in the 2024/25 year for exclusive use of land. Part of a building may also attract a peppercorn lease. The nominal lease amount will be \$100 per annum + GST commencing in the 2024/25 year and are available in the Fees and Charges booklet. These amounts will be increased annually by Consumer Price Index CPI (Hobart).
 20. Council has the right to decline any proposal to lease a Council owned building if it doesn't meet the needs of the community or Councils strategic direction.
 21. An application to lease Council owned or leased property is to be made in writing to admin@brighton.tas.gov.au
 22. It is noted that any current executed lease agreements will take precedence over anything contained in this policy.
 23. The Community rent subsidy amount will be noted in the Councils Annual Report under the tenant's name in accordance with section 77 of the *Local Government Act 1993*.
 24. The General Manager has delegation to execute any Community lease or licence agreement.
 25. This policy does not include Council facilities that are booked or hired casually for example sport ground usage and short-term hall hire.

REFERENCES:

Fair Trading Act (Code of Practice for Retail Tenancies) Regulation 1998

Charities Act 2013 (Cth)

Local Government Act 1993 (Tasmania) sections 177-179

ADMINISTRATIVE DETAILS:

Policy compiled: September 2024

Approved by Council: 17 September 2024

To be reviewed: Every 3 years

Responsibility: Director Corporate Services



CHIEF EXECUTIVE OFFICER

Being the General Manager as appointed by Brighton Council pursuant to Section 61 of the *Local Government Act 1993*